

DS State Program Standing Committee Meeting
July 21, 2016
Comfort Inn, Berlin VT

Attendees:

Members: Connie Woodberry, Julie Cunningham, Bethany Drum, Theresa Wood, Edwin Place, Linda Berger, Max Barrows, Anne Bakeman, Emily Anderson, Greg Mairs

Guests: Cathy Hull, Marlys Waller, Mark Utter, Chris Murray, Ray Hathaway, Lori Lintner, Joy Redington, Marie Zura

State Employees: Stuart Schurr, Camille George, Jeff Nunemaker, Joy Barrett, Chris O'Neill, Clare McFadden, Roy Gerstenberger, June Bascom, Lisa Parro

Introductions, Review Agenda and Approve May Meeting Minutes

There will be a SPSC meeting in August.

Introductions were done later in the meeting, after additional attendees arrived. The minutes for the SPSC May meeting were reviewed. Connie made a motion to accept the minutes as written, Ed seconded, and the May 19th meeting minutes were accepted as written.

Developmental Services Regulations

Act 140, An Act Relating to Developmental Services' System of Care, requires 4 elements in the SOCP to be put into regulations, which is a more thorough, defined, rigorous process. These 4 elements are: Evaluation of quality; service types; eligibility criteria, and priorities for continuing.

The proposed developmental services (DS) regulations implementing the DD Act are on the same timeline as the updating of the DS System of Care Plan (SOCP), and are on a parallel track with the proposed Office of Public Guardian (OPG) regulations that were discussed at last month's meeting. In an effort to collect preliminary comments, the Developmental Disabilities Services Division (DDSD) has presented the drafted DS regulations to the DAIL Advisory Board, has sent copies to some community partners, and is presenting them to the SPSC. At the end of August, the drafted DS regulations will start the regulation process with the Inter Agency Committee on Administrative Rules (ICAR). (*ICAR is an interagency group of peers that reviews regulations to determine if they conflict with any other rules in State government.*) During this process there will be some public meetings in which additional feedback will be obtained. The regulations will then move to the Legislative Committee on Administrative Rules (LCAR), who determines if the regulations are consistent with the intent of the original law. The regulations will need to be effective July 1, 2017 because the System of Care expires at that time.

The process began in March with the local standing committees, who submitted information to DDS by July 1st. Since that time a DDS workgroup has been reviewing the SOCP to locate where the 4 elements of Act 140 are embedded in the plan and to extract this information. The workgroup felt there was a need for a part 11, Evaluation and Assessment of the Success of Program, for programs within the agencies because this topic is called for in Act 140.

Some of the proposed regulations include the same wording that was used in the SOCP, with possibly more clarity; some of the wording is proposed to be deleted as it can be found in other areas; and some proposed information has been changed or has been newly added. *(Color coding for the proposed regulations: Black wording – current language; Red wording, crossed out – existing language being proposed to be eliminated; Green double underlined – wording moved from one place to another; Red wording with underline – proposed new language.)*

A chart with the outlined changes, and the reason for the change, was distributed. June will add the corresponding page numbers in the chart and redistribute it.

The Statute requires that the SPSC receive a copy of the draft SOCP at least 30 days prior to filing them. DAIL is applying this to the draft regulations as well. The proposed timeline for the draft regulations provides more than 30 days, with the comment period ending August 19th, the day after the next SPSC meeting. It takes time to get on the agenda for ICAR; therefore, this date is not flexible in order to commence with the process. There will be public meetings and opportunities for comments after the regulations are submitted to ICAR, and all comments received, either preliminary or after the ICAR filing, will be reviewed the same way. When reviewing the draft, individuals should keep in mind that this is an attempt to comply with Act 140, moving items from the SOCP to regulations; however, if there are things that should stay in the SOCP for flexibility, a recommendation can be made to keep it in the SOCP; and Vice Versa, if something should be put in the rules to make it more stringent, a recommendation can be made to do this.

The SPSC received the draft regulations yesterday and did not have the opportunity to review them before this meeting. The members are concerned about the August 19th deadline for comments, as it does not provide the SPSC time to discuss the regulations and prepare comments for DAIL. The SPSC decided to have a SPSC subcommittee, with representation from all areas, who will meet prior to the next SPSC and review the proposed regulations and present a draft response to DAIL with highlights, comments, and concerns to the SPSC at the August meeting. The subcommittee is a non-paid, voluntary, group who will meet one time for 2 hours at the Waterbury State Office Complex. Greg, Barb, Linda, Connie, Rachel, Ed, Ann, and Theresa volunteered to be a part of the subcommittee. Lisa will send out possible dates and the date that most members can attend will be chosen. Roy will ensure that someone from DDS will be available during this time to answer any questions.

Some of the highlights proposed in the regulations, and some input from the SPSC:

- 1.6, second sentence – “ASD means” is more of an explanation than part of a rule.
- Any place it says ‘currently in service’ should be changed to a date
- It is important to look at the definition of services. The definitions are not new, but the diagnosis in which people would be eligible has more flexibility.

- Page 7 – Are the definitions broad enough for the designated agencies?
- Page 2 – Discusses medically necessary clinically. Medically necessary and through Medicaid state plan both cause problems.
- Some services are not provided by licensed physicians and is not technically a clinical service. The proposed regulations are attempting to sort things out between licensed and non-clinical.
- Section 4.7, p20 – The descriptions of programs and what programs we provide, who is eligible and who can access them. This is an interpretation of what is required by Act 140 – Services and Criteria to Access Services. This is a large addition to the regulations, and the majority of the changes proposed. Most of the limitations are those in the SOCP; however, there are added services in the Home and Community Based Services (HCBS) rules; and an expansion of access to a lower age range, from age 19 to 18, for community and work supports; and the cap of \$200,000 HCBS continues, but it is proposed that a request can be made for up to \$300,000, instead of \$250,000.
- Currently, with PASARR, if an individual not receiving services moves into a nursing home, they can only access 5 hours of community service. This has been removed to make things equitable.
- Choice of providers – Language was added to ensure that people are provided a full range of options.
- Section 5, page 40 – Self and Family Management. There are substantive changes in this area that emphasize the intent of families to hire their own workers, not for individuals/families to purchase services from organizations that do not have the same oversight; and to make requests for funding consistent, having people to return to the DA for an assessment when requesting funds from Equity rather than going to Transition II for an assessment.
- Section 5.6, page 46 – Language was added to give more guidance in a situation where someone may be terminated for self- and family-managed services. This is vague in the current regulations.
- Page 50 – Instead of only registered nurses, this change includes other nurses as well. Removing ‘registered’ also matches what the Board of Nursing uses.
- Page 67 – Concept of certified providers that were not DA’s or SSA’s – Over the years there have been no applications received to become a certified provider; therefore, this section was changed to reflect what the division currently does through the designation process. The Statute does state there has to be a certification process. (Theresa feels that the certification process is the same as designation process)
- Section 11 was added – Process and Evaluation of Process per Act 140.
- The SOCP has a certification section on evaluating the quality of programs, which is linked to the evaluation of agencies; therefore, the new Part 11, Evaluation and Assessment of the Success of Programs does not seem to be needed.

Re-Designation of Specialized Community Care, Inc (SCC)

Specialized Community Care, Inc, (SCC) is a Specialized Service Agency (SSA), which is similar to a designated agency. SCC focuses on challenging behaviors, so they support people with behavioral issues. SCC only accepts individuals in the program if there is an ISA and budget.

Ray Hathaway, SCC Director, gave an overview of Specialized Community Care, Inc (SCC), and Jeff Nunemaker, DDS, gave an overview of the re-designation report.

Theresa suggested that since 4.7 is not required for a Specialized Service Agency (SSA), the check indicating standards have been met should be removed, as there are no standards for them.

The SPSC voted to recommend to the DAIL Commissioner that SCC be re-designated.

Updates and Announcements

DDSD updates

There is no information about a budget increase. DDSD is moving forward working to address the capacity of the system with the new HCBS rules. Over the summer, work has been done on the transition process. As part of transition process, all states are doing assessments of the providers and individuals receiving service to determine any gaps. Vermont is in a unique position where the gap is small. More information will be shared on Vermont's transition plan when it becomes available. Many of the DAs also provide Choices for Care (CFC) services. Both services are funded by HCBS and are included in the survey process and transition plan.

Jonathan Martinis from the Burton Blatt Institute at Syracuse University did a presentation at the Vermont Care Partners conference in May, and he facilitated the meeting of the Vermont Supported Decision Making Task Force. The meeting with the Task Force was successful and prompted ideas about how to bring in more participants and the various elements for care of individuals in Vermont. Some productive things are coming out of this meeting. Roy has met with Jonathan and is setting up two additional meetings for the Task Force, the next will be held in October.

Supportive Decision Making blends well with the proposed OPG regulations by assisting people with supportive decision making as another option where direct guardianship is not necessary. Vermont is one of 7 pilot states for community living and 'No Wrong Door,' where organizations in the community collaborate and use a simplified intake process to assist navigation into the system and conduct "warm hand offs" instead of basic information and referral. The Burton Blatt Institute can expand on this pilot project. The Burton Blatt Institute is interested in working with the State of Vermont and have some grants available to fund projects, which Vermont will look into.

Member Update

This spring the SPSC voted to recommend Mark Utter for appointment. Lisa will follow up on this recommendation. The SPSC membership committee has also discussed with some SPSC members about moving their appointment to a different representation category on the SPSC. The members agreed to the changes, and this information will be submitted to the Governor's office for approval.

David Ballou and Lynn Ujlaky have both applied to be on the SPSC, and both attended the May meeting. Both individuals are strong candidates; however, there is only one slot currently

available. Ed made a motion to recommend David for appointment to the SPSC. Ann Seconded the motion, and the motion was passed. It was noted that both David and Lynn's information is passed on to the Governor's office; however, it will be noted in the paperwork that the SPSC recommends David for the position.

Support Services

Barb reported that she is receiving a disturbing number of calls from individuals who cannot get their service hours filled. Agencies don't have the funds to hire individuals, and staff are hard to find. Roy stated that the State of Vermont has been aware that access to support was diminishing and the need for support has been increasing; and that the need to find ways to get young people into the field and keeping them in the field is important. The DAIL management team has discussed this, and Commissioner Hutt has brought this information to the AHS Secretary's attention. Discussions will continue.

Marlys reported that there is some new legislation on the overtime rule. Anchor, <http://www.ancor.org/>, a national organization, is working for legislation to raise the federal Medicaid match temporarily to help the providers with the home based rule and overtime rule.

Meeting Location(s)

At a meeting earlier this year, the SPSC decided to continue to hold the SPSC meetings at the Comfort Inn in Berlin, with quarterly meetings held at the Waterbury State Office Complex. A discussion about whether this decision should be changed ensued; however, the previous decision will remain in effect. Lisa may want to research the Chamber of Commerce in Berlin as an alternative location.

The SPSC was asked if they would like to host one of the public hearings on the regulations, possibly in November or December. If this occurs, a location other than the Comfort Inn should be used.

Bethany is having a yard sale on August 6th, 10:00 – 2:00, at the Randolph House in Randolph.

Mark is presenting at the Syracuse University, Institute on Communication and Inclusion, 2016 ICI Summer Institute in Colombia, MD. His presentation is Reaching Up Through the Keyboard for a Better Life.

http://soe.syr.edu/centers_institutes/institute_communication_inclusion/Summer_Institute/schedule_2016.aspx

The Green Mountain Self Advocates (GMSA) is working with Self Advocates Becoming Empowered (SABE) on a proposal for a grant for self-advocate organizations.

On 9/12 at the Statehouse, there will be an event honoring direct care professionals.